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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,679	07/24/2003	Peter Rutkowski	03938-P0001A	1044

24126 7590 12/14/2004

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

EXAMINER

TSIDULKO, MARK

ART UNIT PAPER NUMBER

2875

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/626,679

Applicant(s)

RUTKOWSKI, PETER

Examiner

Mark Tsidulko

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 113004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “*second diffusion element*” (claims 10, 11, 16) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The abstract of the disclosure is objected to because of using claim language:

“**comprising**” should be changed to “**having**” (lines 1 and 6).

Also, it is unclear what Applicant intends by “*A diffuser for diffusing a **radiation source***” (Abstract, lines 5 and 6). Only light can be diffused, but not light radiation source.

Correction is required. See MPEP § 608.01(b).

Claim Objections

Claims 6, 10, 16 are objected to because of the following informalities:

Referring to Claim 6 it is unclear what Applicant intends by “*a housing with ... a connection end inside the housing*” and “*light source connected to the connection end of the housing*”. End of the detail cannot be inside the detail, and the light source can be connected to the power source, but not to the connection end of the housing.

Referring to Claims 10 and 16 the phrase “*emanation of the **lamp** radiation*” should be change to “*emanation of **light** radiation*”. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1, 3, 4, 6, 8-11, 12, 14, 15, 17, 19-23, 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graubner (US 2,823,300) in view of Zadro (US 2004/0047052).

Referring to Claims 1, 3, 4, 6, 8, 9, 12, 14, 15, 17, 19-23, 25-28 Graubner discloses (Figs. 1, 2) a flashlight including a light emission section having a light source [B], a medium (lens) [17], and a diffusion element [20] (col. 1, lines 15-34) removably attached to the light emission section. The diffuser is suitable for use as a flashlight for spotlight (col. 1, lines 29-34). It would have been an obvious matter of design choice to provide the different decorative shapes of the diffuser for purpose of aesthetic appearance.

Graubner discloses the instant claimed invention except for a translucent suction cap. As shown in Fig. 2 attachment is provided by the lens ring [18] threaded to the flashlight and having an annular flange [19] overhanging flange [22] of the diffusion element [20]. Using a suction cup for attachment the diffusion element to the flashlight will allow simplify and accelerate assembling and disassembling.

Zadro (Figs. 4, 5) discloses a suction cup [34] adapted (as well known in the art) for securing attachment to the flat surface. The suction cup made of translucent thermoplastic material (vinyl) (page 4, [0040]). Since Zadro discloses (Fig. 5) that the bracket [12] is removably attached to the suction cup [54], it is clearly understood that any detail may be attached to the suction cup identically.

Referring to Claims 10, 11 and 16 it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Zco.*, 193 USPQ 8.

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It would have been an obvious matter of design choice to provide the different color of the diffuser for purpose of aesthetic appearance.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the suction cup, as shown by Zadro, for the attachment of diffusion element of Graubner to the lens of the flashlight in order to simplify and accelerate assembling and disassembling.

Claims 2, 7, 13, 18, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graubner and Robinson as applied to claim 1 above, and further in view of Raynor (US 3,080,553).

Graubner et al. discloses the instant claimed invention except for diffusion element imparting at least one color to the radiation.

Raynor discloses a flashlight having a colored diffusion element (col.2, line 34).

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the colored diffuser, as taught by Raynor, for the device of Graubner et al. for the purpose of aesthetic appearance.

Conclusion

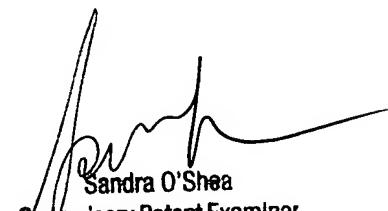
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Tsidulko whose telephone number is (571)272-2384. The examiner can normally be reached on 8 - 5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M.T.
November 30, 2004



Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800